

BEFORE THE DEPARTMENT OF INSURANCE  
STATE OF NEBRASKA

NEBRASKA DEPARTMENT  
OF INSURANCE

MAY 20 2004

FILED

STATE OF NEBRASKA  
DEPARTMENT OF INSURANCE,

PETITIONER,

VS.

ALLISON L. KLANECKY,

RESPONDENT.

CONSENT ORDER

CAUSE NO. A-1534

May 18, 2004 ACCT# 8521 \$2,000.00  
NO-INVOICE TRAN# 1318169  
KLANECKY, ALLISON L  
CHECK# 2102

In order to resolve this matter, the Nebraska Department of Insurance ("Department"), by and through its attorney, Michael C. Boyd and Allison L. Klanecky, ("Respondent"), mutually stipulate and agree as follows:

JURISDICTION

1. The Department has jurisdiction over the subject matter and Respondent pursuant to Neb. Rev. Stat. §44-101.01 and §44-4047, et seq.

2. Respondent was licensed as an insurance agent under the laws of Nebraska at all times material hereto. Respondent's registered address with the Department of Insurance is 321 West 2<sup>nd</sup> Street, Grand Island, Nebraska 68801.

STIPULATIONS OF FACT

1. The Department initiated this administrative proceeding by filing a petition styled State of Nebraska Department of Insurance vs. Allison L. Klanecky on April 27, 2004. A copy of the petition was served upon the Respondent at the Respondent's address registered with the Department by certified mail, return receipt requested.

2. The petition alleges that Respondent violated Neb. Rev. Stat. §§44-1525(10), 44-4059(1)(b), 44-4059(1)(e), 44-4059(1)(g) and 44-4059(1)(h) as follows:

- a. On or about April 13, 2003, Larry E. Krause of Greenwood, Indiana filed a complaint with the Consumer Affairs Division ("CAD") of the Nebraska Department of Insurance against Allison Klanecky, the Respondent in this matter. In his complaint, Larry Krause told the Department of Insurance that Respondent had, as Larry characterized it, "sold" Larry's 83 year old mother, Molly Krause, an annuity on March 10, 2003 for \$15,000, with Larry listed as the policy owner and annuitant, and Molly listed as beneficiary. Larry claimed that his signature on the March 4, 2003 application was forged as he lives in Indiana and was not in Nebraska in March 2003 when the annuity application was completed and signed. Larry further noted that the policy address of record is his mother's address, which he surmises is so that this effort to get the annuity issued with him as owner/annuitant could be done without his knowledge; and also pointed out that his mother has a medical condition that results in a gradual increase in dementia. He raised the issue that his mother is not a suitable candidate for purchasing an annuity and attempting to gift it as she needs ready access to the money for her own needs.
- b. On April 17, 2003, a letter was sent to Respondent at his registered address with the Department of Insurance from Sylvia Gregory-Witherspoon, an Insurance Investigator for the Department, requesting Respondent provide a descriptive statement in response to the complaint of Larry Krause regarding the sale of the March 10, 2003 annuity policy to Molly Krause of Scottsbluff, NE, with a detailed outline of his handling, copy of the application and policy, and Insurance Company name.
- c. On or about April 28, 2003, Allison Klanecky responded to the letter referred to in subparagraph b. In his letter, the Respondent gave a detailed history of his insurance transactions with Chris (now deceased) and Molly Krause, the parents of Larry Krause. He had sold them a number of annuities in the past and claimed that he had been told by another insurance company, London Pacific Life & Annuity Company, several years ago that Chris and Molly could sign for their adult children, including Larry Krause, as an annuitant, on annuity applications with that company. Subsequently, after Chris had died, and Molly had allegedly indicated to him that she wanted to gift some money to her children, the Respondent had, based upon this alleged advice, allowed Molly Krause to sign applications for those adult children listing them as owners of annuities with that same company. The Respondent followed that same procedure on the March, 2003 \$15,000 Single Premium Deferred Annuity #06532276 issued by Great American Life Insurance Company ("GALIC") that was the basis for Larry Krause's complaint set forth in subparagraph a. In his letter, Respondent admitted that he used poor judgment in allowing Molly to sign for Larry on the

application and then went on to state that he should have insisted that the application be sent to Larry for his personal signature. (However, as noted in subparagraph a, on the policy application for the March 2003 GALIC annuity issued to Larry Krause as owner/annuitant it shows Larry Krause's address as 1901 Avenue E, Scottsbluff, NE 69361, which is Molly's address and also had a Scottsbluff, NE phone number listed for Larry, even though Respondent knew or should have known that information was false.) Although the annuity was issued to Larry Krause as owner, Respondent further admitted that he had delivered the annuity policy to Molly Krause, the beneficiary under the policy, rather than to the policy owner, Larry Krause.

- d. On May 1, 2003 a letter was sent to GALIC by the Department's Insurance Investigator, Ms. Gregory-Witherspoon regarding Larry Krause's complaint and requesting their evaluation and response to this matter.
- e. On or about May 29, 2003 GALIC responded to the letter referred to in subparagraph d. The company advised that based upon a letter they had received from Larry Krause on April 23, 2003 claiming he didn't sign the application upon which their annuity contract #06532276 was issued to him as owner/annuitant, and the Forged Signature Affidavit they received from Larry Krause on May 14, 2003, they had cancelled this annuity, which had been issued effective March 10, 2003, and sent a refund check for \$15,000 to Molly Krause.
- f. Subsequent correspondence from GALIC to the Department advised that the company had issued the annuity policy to Larry Krause in reliance upon his application which showed his "address" in Nebraska and the contract application had been completed and signed there; and had they known that Larry resided in Indiana and had not been in Nebraska at the time the application was completed and signed, they would not have issued the policy since Respondent could not transact insurance business in Indiana since he was not a licensed insurance producer in that state.
- g. GALIC submitted a copy of the Single Premium Annuity application it received from Respondent for the Larry Krause annuity policy #06532276, which contained the false address for Larry Krause and had the forged signature of Larry listed as having been signed at Scottsbluff, NE on March 4, 2003. That application had a section titled "Agreement" that contained this statement. "By signing this form, I understand and agree to all of the following: All statements and answers on this form are made to secure the policy for which application is made...I have read this application and I understand each of the statements and answers on this form. To the best of my knowledge and belief, the information above is true and complete."

- h. GALIC also submitted records showing they paid a commission on the issuance of the Larry Krause annuity contract #06532276 in the amount of \$1,537.50 on March 10, 2003. This commission was paid to U. S. Central Corporation of Grand Island, NE, a General Agency of GALIC, where the Respondent was employed, based upon a commission assignment executed by the Respondent. When GALIC determined that the annuity policy was issued based upon the application's misrepresentation of the owner/annuitant's residence and the forged signature of the owner/annuitant, that annuity contract was cancelled and the agent commission reversed on May 22, 2003.

3. Respondent was informed of his right to a public hearing. Respondent waives that right, and enters into this Consent Order freely and voluntarily. Respondent understands and acknowledges that by waiving his right to a public hearing, Respondent also waives his right to confrontation of witnesses, production of evidence, and judicial review.

4. Respondent admits the allegations contained in the Petition and restated in Paragraph #2 above.

#### CONCLUSIONS OF LAW

Respondent's conduct as alleged above constitutes a violation of Neb. Rev. Stat. §§44-1525(10), 44-4059(1)(b), 44-4059(1)(e), 44-4059(1)(g), and 44-4059(1)(h).

#### CONSENT ORDER

It is therefore ordered by the Director of Insurance and agreed to by Respondent, Allison L. Klanecky, that Respondent shall pay an administrative fine of \$2,000. The fine shall be paid in total within thirty (30) days from the date the Director of the Department of Insurance affixes his signature to this document and approves said consent agreement. The Nebraska Department of Insurance shall retain jurisdiction of this matter for the purpose of enabling the Respondent or the Department to make application for such further orders as may be necessary.

In witness of their intention to be bound by this Consent Order, each party has executed this document by subscribing his signature below.

Michael C. Boyd  
Michael C. Boyd  
Attorney for Nebraska  
Department of Insurance  
941 "O" Street, Suite 400  
Lincoln, Nebraska 68508  
(402)471-2201

5-18-04  
5-14-04  
Date

Allison L. Klanecky  
Respondent  
5-11-04  
Date

State of NE )  
County of Hall ) ss.


On this 14<sup>th</sup> day of May, 2004, Allison L. Klanecky personally appeared before me and read this Consent Order, executed the same and acknowledged the same to be his voluntary act and deed.



Darlene J. McBee  
Notary Public

I hereby certify that the foregoing Consent Order is adopted as the Final Order of the  
Nebraska Department of Insurance in the matter of State of Nebraska Department of Insurance vs.  
Allison L. Klanecky, Cause No. A-1534.

STATE OF NEBRASKA  
DEPARTMENT OF INSURANCE



L. TIM WAGNER  
Director of Insurance

5/20/04  
Date

#### CERTIFICATE OF SERVICE

I hereby certify that a copy of the executed Consent Order was sent to the Respondent at  
321 West 2<sup>nd</sup> Street, Grand Island, Nebraska 68801, by certified mail, return receipt requested on  
this 20<sup>th</sup> day of May, 2004.

